IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 1809 OF 2002

IN

NOTICE OF MOTION NO. 2284 OF 1996

IN

NOTICE OF MOTION NO. 1661 OF 2002

IN

SUIT NO. 877 OF 1993

Ahmed R. Currim and ors. .....Plffs.
vs.
Lakhamshi Meghji Chheda and ors. .....Defnds.
AND
Ms. Shirin K. Barucha ...Intervener

Chirag Balsara a/w. S.H. Merchant and Sushma Satpute i/b. M & M Legal Ventures for the plffs.

C.S. Kapadia i/b. A.B. Shinde Intervenor.

V.J. Mahkhija a/w. K.N. Gaikwad -defendant no.10(B.M.C..)

D.D. Madon a/w. Ketan Parikh i/b. Prakash and Co. for defendannt no.1 to 4.

CORAM: S.U. KAMDAR, J.

DATE : 15th September, 2005.

P.C. :.

1. The present application is field by one Mr. Shirin Barucha purported to be in capacity of the president of Oval Cooperage Residents Association. The present suit pertaining to building known as ‘Chheda Sadan’ at Jethi Sipahimalani Marg, (Backbay Reclamation, Plot No.115, Block-III) Mumbai-400 020. The tenants of the building have filed the present suit inter-alia disputing alterations carried out by one of the occupier on the ground floor who happens to be also the landlord of the building. Further reliefs are also sought for demolition of unauthorised construction and also stopping the tenants from using the said premises. The Minister has passed certain orders which is also a subject matter of challenge in the present suit. Learned counsel for the applicants in the present motion contends that in view of the fact that the Minister order is under challenge that they are necessary and or proper party to the

present proceedings irrespective of the fact that they are in occupation of any portion of the building or not. In my opinion the applicants is neither necessary nor proper party nor entitled to any reliefs in the present suit. It is because for a person to be a proper or necessary party either he should be aggrieved or he should suffer injury. Admittedly the applicants arenot residing in any portion of the said building than they do not have any legal right to be added in this proceedings. can be granted in the said suit. Looking at the prayer of the suit I do not find applicant either necessary or proper party to the present suit. This is not a writ proceedings under which any party can be treated as party to the proceedings merely by virtue of the fact that he is one of the person residing in the vicinity of the said property. In the aforesaid, I find that the present motion is misconceived. Motion dismissed. No order as to costs.

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